



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: CardioMetrix
File: B-244837.2
Date: August 2, 1993

Robert J. Loring for the protester.
Bernard J. Roan, Esq., United States Coast Guard, Department of Transportation, for the agency.
Paula A. Williams, Esq., and Paul I. Lieberman, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Protest that solicitation which consolidates requirements for laboratory services for 21 medical clinics unduly restricts small businesses from competing for the services is denied where the agency reasonably determined that a consolidated contract is necessary to satisfy its minimum needs.

DECISION

CardioMetrix, a small business concern, protests the decision of the United States Coast Guard to consolidate its requirements for clinical laboratory services at 21 Coast Guard clinics throughout the east coast under request for proposals (RFP) No. DTCG84-91-R-3KB600, which contemplates a single award. CardioMetrix contends that consolidating the requirements into a single award is unduly restrictive of competition because it diminishes small business participation.

We deny the protest.

On June 18, 1991, the Coast Guard issued the RFP soliciting offers for a contractor to provide, in its own facility, clinical laboratory services for and at the request of Coast Guard medical officers or civilian physicians under agreement with the Coast Guard through specimen referral. Under the RFP, the contractor is required to pick up specimens from 21 Coast Guard clinics located throughout the east coast which previously had been operated and managed as separate, independent sites.

CardioMetrix alleges that by consolidating the requirements of 21 separate clinics, the agency has effectively eliminated the possibility of competition from small business firms even though some of these firms, including itself, are incumbent providers for individual clinic requirements.

The Competition in Contracting Act of 1984 generally requires that solicitations include specifications which permit full and open competition and contain restrictive provisions and conditions only to the extent necessary to satisfy the needs of the agency. 41 U.S.C. § 253(a) (1988). Procurements by an agency on a total package basis can restrict competition; however, the use of such an approach is proper where required to satisfy the agency's minimum needs. See Institutional Communications Co., B-233058.5, Mar. 18, 1991, 91-1 CPD ¶ 292; Electro-Methods, Inc., 70 Comp. Gen. 53 (1990), 90-2 CPD ¶ 363; Massa Prods. Corp., B-236892, Jan. 9, 1990, 90-1 CPD ¶ 38.

The Coast Guard states that the decision to use a single regional contractor is primarily based on the agency's past and present experience using smaller, multiple contracts which produced higher test prices due to low quantities, divergences in test methodology, and numerous billing problems resulting in interest payments and costly contract administration. The agency explains that consolidating laboratory services will allow the Coast Guard to take advantage of its purchasing power in the form of quantity/volume discounts; simplify and reduce contract administration burden; solve invoice processing problems encountered in past multiple procurements; and give each clinic greater flexibility to order any test available in the commercial marketplace and thereby improve the physician's ability to diagnose medical ailments.

The agency also points out that the clinical staff are uniformed service personnel who regularly transfer among clinics, and medical efficiency and safety require that they be able to depend on consistency in the use and results of laboratory tests when making diagnoses and prescribing treatment wherever they might be stationed. Currently, tests with the same name at different clinics using different contractors can mean different things and test methods can be different among contractors. For example, a specific named test may yield the measurement of three functions or substances at one clinic but may yield four measurements at another clinic that uses a different contractor. These divergences in methodology and result can

adversely affect the level and safety of medical care since service-member patients and their families, like the service-member clinic staff, are frequently transferred from one clinic's service area to another.

In further support of its position that a consolidated contract is necessary to meet its minimum needs, the agency points out that in a previous decision involving this solicitation, CardioMetrix, B-244837, Nov. 20, 1991, 91-2 CPD ¶ 483, our Office found that the Coast Guard can reasonably estimate its total test requirements, but could not accurately estimate its test needs on a per-site basis because of shifting Coast Guard populations served by each clinic.

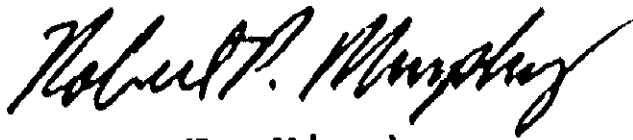
CardioMetrix does not refute or even respond to the agency's explanation that a consolidated contract is necessary to meet the government's minimum needs. Instead, the protester simply argues that the acquisition should be severed into smaller multiple contracts encompassing up to a maximum of seven clinics, and that this approach would permit the use of set-aside procurements and thereby maximize small business participation.

We find reasonable the Coast Guard's justification for a single, consolidated contract (rather than separate multiple contracts), which ensures that one medical contractor is responsible for the standardized ordering, testing, reporting, and billing procedures of all 21 clinics. Past procurement difficulties from multiple procurements can reasonably substantiate the need for a single contract provider. See The Sequoia Group, Inc., B-252016, May 24, 1993, 93-1 CPD ¶ 405. Here, as noted above, divergence between past solicitation estimates and actual contract orders for particular sites has led to difficulties with estimation; processing large numbers of invoices from many different contractors has led to inefficiency and processing errors; and higher test prices have resulted at sites where adequate competition was not achieved. We also see no basis to object to the agency's position that the price leverage inherent in volume purchasing will result in medical cost savings, and the standardization of test methods can improve medical efficiency and safety. In our view, the agency has adequately documented that consolidation is necessary to meet its requirements.

While CardioMetrix and some other small businesses may not be able to compete for the consolidated contract, we note that the Small Business Administration (SBA) concurred with the agency's decision to consolidate its requirements and conduct the procurement on an unrestricted basis; the SBA also provided the name of one small business which appeared to be capable of competing. The fact that CardioMetrix may

not be able to compete does not show that consolidation was not necessary to satisfy the government's requirement, nor is an agency required to craft a solicitation with the aim of ensuring the protester's retention to the detriment of the government's actual requirements. Id.

The protest is denied.


for James F. Hinchman
General Counsel